

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

**DOCKET NO. 3:07-CV-00411-FDW**

**TYRONE SIFFORD,**

**Petitioner,**

**vs.**

**UNITED STATES OF AMERICA,**

**Respondent.**

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**ORDER**

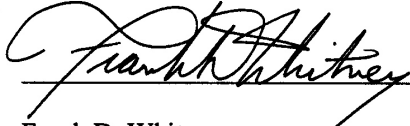
THIS MATTER comes now before the Court upon Petitioner's Motion for Grant of a Certificate of Appealability (Doc. No. 5) regarding this Court's Order denying Petitioners successive Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 (Doc. No. 2). Petitioner's Motion is DENIED.

Under 28 U.S.C. § 2253, an appeal may not be taken to the court of appeals from the final order on a § 2255 proceeding "[u]nless a circuit justice or judge issues a certificate of appealability." Thus, Petitioner seeks a certificate of appealability from this Court so that he may appeal the Court's denial of his § 2255 motion. Section 2253 states the standard for when such certificates shall issue: "A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right." Petitioner, however, has made no such showing. Indeed, this Court stated in its Order denying Petitioner's successive § 2255 motion that his claims were "utterly frivolous and without merit." (See Doc. No. 2.) The Court's opinion has not changed.

Therefore, Petitioner's Motion for Grant of a Certificate of Appealability is DENIED.

IT IS SO ORDERED.

Signed: October 30, 2007

  
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Frank D. Whitney  
United States District Judge

